



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 29, 1994

Ms. Tracy R. Briggs
Assistant City Attorney
City of Houston
P. O. Box 1562
Houston, Texas 77251-1562

OR94-514

Dear Ms. Briggs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 25400.

The City of Houston Police Department received a request under the Open Records Act for the following information:

1. Calls for service from a specific location.
2. Information and incident reports pertaining to the homicide of Estuardo Rosario, HPD Incident Report 149377944.

You state that the police department has made the documents requested in Exhibit 1 available to the requestor, as well as the public release information corresponding to the case referenced in item two. You maintain that the documents contained in the file of the police department's investigation into the incident are excepted from disclosure pursuant to sections 552.103 and 552.108 of the Government Code.¹ We will first deal with your arguments under section 552.108. This section provides that the following information is protected from required public disclosure under the Open Records Act:

¹You have submitted a letter from an assistant district attorney for Harris County, which states that the information is relevant to an active criminal prosecution, and that dissemination of any information may be detrimental to the prosecution of the case.

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime. . . .
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution

Gov't Code § 552.108.

In an active law enforcement file, information typically recorded on the first page of the offense report is ordinarily available to the public under the Open Records Act, while the remainder of the offense report is excepted from disclosure by section 552.108 of the Government Code. *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) (listing information from offense report of active case that is available under the Open Records Act, and information that may be withheld under section 552.108); see also *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 408 (1984). If you have not already done so, you must provide the requestor with the information typically found on the first page of the offense report.

We note, however, that the location of the information is not determinative of its status. The information identified by the court in *Houston Chronicle*, as information generally found on the first page of the offense report must be released regardless of where it is found. See Open Records Decision No. 127 (1976) at 5. Therefore, to determine what information must be released, you will need to examine the type of information rather than its location. We have enclosed a copy of Open Records Decision No. 127, which lists the types of information that are considered public and which must be disclosed. Because this is an active law enforcement file, you may withhold the remaining information from disclosure pursuant to section 552.108 of the Government Code.²

²Since we have resolved this matter on the basis of section 552.108 of the Government Code, we need not address your argument under section 552.103 of the Government Code.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,

A handwritten signature in cursive script that reads "Susan L. Garrison".

Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/MAR/rho

Ref.: ID# 25400

Enclosures: Marked documents
Open Records Decision No. 127 (1976)

cc: Mr. Henry Marr
5300 Memorial Drive, Suite 450
Houston, Texas 77007
(w/o enclosures)